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**UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA**

State of Arizona, *ex rel.* Kristin K. Mayes,
Attorney General, *et al.*,

Plaintiffs,

v.

Michael D. Lansky, L.L.C., dba Avid
Telecom, *et al.*,

Defendants.

CASE NO.: 4:23-cv-00233-TUC-CKJ
(MAA)

**PLAINTIFFS' MOTION TO
DETERMINE THE SUFFICIENCY
OF DEFENDANTS' RESPONSES
AND OBJECTIONS TO
PLAINTIFFS' SECOND REQUESTS
FOR ADMISSION**

Pursuant to Rule 36(a)(6) of the Federal Rules of Civil Procedure, Plaintiff States (collectively, "Plaintiffs"), respectfully request the Court to determine the sufficiency of certain answers and objections from Defendants Michael D. Lansky, L.L.C. dba Avid Telecom ("Avid Telecom"), Stacey S. Reeves ("Reeves"), and Michael D. Lansky ("Lansky"), collectively, "Defendants", in response to Plaintiffs' Second Set of Requests for Admission (the "Requests").

This Motion is supported by the following Memorandum of Points and Authorities, the Declaration of Sarah Pelton and the exhibits attached thereto, any oral argument that may be heard on this issue, all other pleadings and papers on file in this action, and any other evidence that may be presented to the Court.

1 **GOOD FAITH CONSULTATION CERTIFICATE**

2 In accordance with Rule 37(a)(1) of the Federal Rules of Civil Procedure and Local
3 Rule 7.2(j), undersigned counsel represents that prior to filing the instant Motion, Plaintiffs
4 attempted to personally confer with Defendants’ counsel regarding their failure to respond
5 to Plaintiffs’ Requests, but to no avail. *See* Declaration of Sarah Pelton (“Pelton Decl.”),
6 dated December 18, 2025 at ¶¶ 6-8, Ex. C. Accordingly, Plaintiffs were left with no
7 alternative other than to file and serve this Motion.

8
9 **MEMORANDUM OF POINTS AND AUTHORITIES**

10 **I. INTRODUCTION**

11 Plaintiffs brought this lawsuit to protect consumers from Defendants’ illegal
12 telemarketing and robocall schemes. As set forth in the Complaint, Defendants are in the
13 business of providing Voice over Internet Protocol (“VoIP”) services, facilitating or
14 initiating robocalls, and/or helping others make illegal robocalls – in violation of multiple
15 state and federal laws.

16 On October 17, 2025, Plaintiffs served Defendants with the Requests seeking
17 admission of relevant and admissible evidence in Defendants’ knowledge related to
18 Plaintiffs’ causes of action under the Telemarketing and Consumer Fraud and Abuse
19 Prevention Act, the Telemarketing Sales Rules, the Telephone Consumer Protection Act,
20 the Truth in Caller ID Act, as well as other state and federal laws, and Defendants’ claimed
21 defenses thereto. *See* Pelton Decl. at ¶ 3, Ex. A.

22 Defendants served their responses on November 16, 2025. *Id.* at ¶ 4, Ex. B.
23 However, in violation of Rule 36, Defendants’ responses were insufficient. Accordingly,
24 Plaintiffs request the Court to determine the sufficiency of Defendants’ responses.

25
26 **II. RELEVANT FACTS**

27 On or around October 17, 2025, Plaintiffs served Defendants with the Requests
28 pursuant to Rule 36 of the Federal Rules of Civil Procedure. *See* Pelton Decl. at ¶ 3, Ex. A.

1 The Requests sought relevant discovery regarding matters at the heart of the Complaint
2 and Defendants' defenses thereto, namely admissions concerning Defendants' business of
3 facilitating, initiating, and/or helping others make illegal robocalls; Defendants' business
4 records evidencing illegal telemarketing and robocalling activity; Defendants' purposeful
5 failure to implement any mitigating or corrective measures to prevent the perpetration of
6 illegal telemarketing and robocalling activity; and the monies and compensation
7 Defendants earned through their illegal telemarketing and robocalling activity. *Id.* at Ex.
8 A.

9 Defendants served their responses on November 16, 2025. *Id.* at ¶ 4, Ex. B.

10 On or around November 25, 2025, the Court held a telephonic conference on the
11 status of the parties' discovery disputes. Plaintiffs asserted that from their initial review of
12 Defendants' responses, there were several issues present that were also observed in
13 Defendants' responses to Plaintiffs' First RFAs, namely that the responses were evasive
14 and had unsubstantiated relevance objections. *Id.* at ¶ 5.

15 On or around December 9, 2025, the parties held a meet and confer. During the
16 meeting, Plaintiffs raised the deficiencies in Defendants' responses again – that they were
17 evasive and failed to elaborate on relevance objections. *Id.* at ¶ 6. Plaintiffs followed up
18 with defense counsel after the meet and confer with an itemized list of the deficiencies. *Id.*
19 at ¶ 7, Ex. C. Defense counsel acknowledged receipt of the email, but have not responded
20 to the substance of Plaintiffs' concerns. *Id.* at ¶ 8.

21 Plaintiffs attempted multiple times to clear up this issue with Defendants to no avail.
22 Accordingly, left with no other alternative, Plaintiffs were forced to file and serve the
23 instant motion.

1 **III. ARGUMENT**

2 **A. Defendants' Responses Are Evasive and Contain Improper Objections,** 3 **Making Them Insufficient under the Federal Rules of Civil Procedure.**

4 **1. Defendants' Responses Are Insufficient Because They are Evasive,** 5 **Qualified, and Based on an Unreasonable Reading of Plaintiffs' Actual** 6 **Request.**

7 Defendants' responses are insufficient under the Federal Rules because they evade
 8 the central ask of the Request and unilaterally qualify responses on Defendants'
 9 unreasonable understanding of Plaintiffs' Requests. Federal Rule of Civil Procedure 36
 10 requires the answering party to respond in one of three ways to a Request for Admission:
 11 (1) admit the Request; (2) deny the Request; or (3) explain "why the answering party is
 12 unable to admit or deny the matter." Fed. R. Civ. P. 36(a)(4); *see also AmeriPride Servs.,*
 13 *Inc. v. Valley Indus. Servs., Inc.*, No. CIV 2:00-cv-0113-LKK-JFM, 2011 WL 1321873, at
 14 *2 (E.D. Cal. Apr. 1, 2011). Rule 36 serves to expedite matters for trial by "establishing
 15 certain material facts as true and thus narrowing the range of issues[.]" *Asea, Inc. v.*
 16 *Southern Pac. Transp. Co.*, 669 F.2d 1242, 1245 (9th Cir. 1981). "A denial must fairly
 17 respond to the substance of the matter; and when good faith requires that a party qualify an
 18 answer or deny only a part of a matter, the answer must specify the part admitted and
 19 qualify or deny the rest." Fed. R. Civ. P. 36(a)(4).

20 Requests for admission should not focus on evasion and word play. *Marchand v.*
 21 *Mercy Med. Ctr.*, 22 F.3d 933, 936 (9th Cir. 1994) ("Parties may not view requests for
 22 admission as a mere procedural exercise requiring minimally acceptable conduct."). When
 23 the purpose and significance of a request are reasonably clear, courts do not permit denials
 24 based on an overly technical reading of the request. *Holmgren v. State Farm Mut. Auto.*
 25 *Ins. Co.*, 976 F.2d 573, 580 (9th Cir. 1992) ("[E]pistemological doubts speak highly of [a
 26 party's] philosophical sophistication, but poorly of its respect for Rule 36(a)."); *see also*
 27 *U.S. ex rel. Englund v. Los Angeles Cty.*, 235 F.R.D. 675, 684 (E.D. Cal. 2006) ("[A] party
 28 who is unable to agree with the exact wording of the request for admission should agree to

an alternate wording or stipulation.”). Further, evasive denials, or responses that do “not set forth in detail the reasons why the answering party cannot truthfully admit or deny the matter, may be deemed an admission.” *Asea, Inc.*, 669 F.2d at 1245.

Here, a majority, if not the entirety, of Defendants’ responses are deficient under Rule 36 because they (1) explicitly premise each response on stated objections, and (2) improperly introduce unsupported opinions about observance of industry standards of care.

Specifically, Defendants’ responses to Request Nos. 3-7, 15-19, 23-38, 40, 42-46, and 51 show a troubling pattern of avoiding the substance of each Request in a way that renders the response unusable. To illustrate, Defendants’ response to Request 17 does not answer the entirety of the Request. Request 17 asks whether Sumco Enterprise was a customer of Defendant Avid Telecom’s VoIP service or DID product (emphasis added), but Defendants’ response only addresses Avid Telecom’s VoIP service. As another example, Request 23 asked whether Defendant Avid Telecom received a Traceback from the ITG related to a call from one of Avid Telecom’s customers. Defendants’ response did not acknowledge a Traceback or the ITG in its response and added unnecessary, self-serving narrative that Avid Telecom complied with industry standards.

2. Defendants’ Responses Include Improper Relevance Objections.

In its responses, Defendants stated Request Nos. 8-9, 12, and 47 are irrelevant, and refused to provide responses on that basis. But Rule 36 requires any party objecting to a Request for Admission to state “[t]he grounds for objecting[.]” Fed. R. Civ. P. 36(a)(5). Relevance objections must set forth an “explanation or argument why the requested [discovery is] not relevant”, or they will be deemed improper. *A. Farber & Partners, Inc. v. Garber*, 234 F.R.D. 186, 188 (C.D. Cal. 2006); *see also Big City Dynasty v. FP Holdings, L.P.*, 336 F.R.D. 507, 510 (D. Nev. 2020) (“The party resisting discovery must specifically detail the reasons why each request is irrelevant or otherwise objectionable, and may not rely on boilerplate, generalized, conclusory, or speculative arguments.”).

Defendants' deliberate efforts to evade and alter the substance of the Requests propounded upon them are improper and in direct violation of Rule 36 of the Federal Rules of Civil Procedure. Rule 36(a)(4) requires Defendants to admit or specifically deny each Request or state in detail why they cannot, which Defendants failed to do, instead relying on improper objections and qualifications. Consequently, Plaintiffs request the Court order Defendants to strike the responses to the certain aforementioned Requests and order Defendants to serve new responses.

IV. CONCLUSION

For the reasons set forth above, Plaintiffs respectfully request the Court to order Defendants to strike the responses to Request Nos. 3-7, 8-9, 12, 15-19, 23-38, 40, 42-47, and 51 and order Defendants to serve new responses to Plaintiffs' Second Set of Requests for Admission.

RESPECTFULLY SUBMITTED this 18th day of December, 2025.

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CERTIFICATE OF SERVICE

I hereby certify that on December 18, 2025, I caused the foregoing
PLAINTIFFS' MOTION TO DETERMINE THE SUFFICIENCY OF
DEFENDANTS' RESPONSES AND OBJECTIONS TO PLAINTIFFS' SECOND
REQUESTS FOR ADMISSION to be filed and served electronically via the Court's
CM/ECF system upon counsel of record.

/s/ Sarah Pelton

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